



STATE OF WASHINGTON  
WASHINGTON STATE BOARD OF HEALTH  
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May 12, 2004

**TO:** Washington State Board of Health Members

**FROM:** Carl Osaki, Board Member

**RE: UPDATE ON TRANSIENT ACCOMMODATIONS, CHAPTER 246-360 WAC**

**Background and Summary**

RCW [70.62.240](#) requires that “The board shall adopt such rules as may be necessary to assure that each transient accommodation will be operated and maintained in a manner consistent with the health and safety of the members of the public using such facilities. Such rules shall provide for adequate light, heat, ventilation, cleanliness, and sanitation and shall include provisions to assure adequate maintenance.” Transient accommodations are facilities such as hotels, motels, condominiums, and resorts that offer three or more lodging units to travelers and transient guests.

The State Board of Health last made significant revisions to the rules regulating transient accommodations, chapter [246-360 WAC](#), in 1994. On Dec. 17, 2001, it filed a CR-101 ([WSR 02-01-084](#)) announcing it was considering changes to these rules. The Department of Health (DOH) developed draft revisions and held stakeholder workshops in June 2003. DOH is now prepared to recommend new language to this Board and has requested that the Board file a CR-102 and schedule a public hearing for the July 14 meeting (see timeline attached).

In preparation for the public hearing and possible Board action, I have asked Linda Furkay, Deputy Director of the DOH Office of Accommodations and Residential Care Survey, to come before the Board today and discuss proposed changes that are likely to have a significant impact on public health or on the owners and operators of transient accommodations (see attached presentation). Ms. Furkay also will discuss briefly the legal issue of whether DOH surveyors have authority to access a room that is rented. The proposed revision would remove language that attempts to define this authority in Board rule.

Ms. Furkay will not address the regulation of homeless shelters, which are covered by the definition of transient accommodations, at this time. At a future meeting, the Board will receive a separate briefing about collaborative efforts to develop a regulatory framework and set of standards that are specific to homeless shelters.

**Recommended Board Action**

None at this time.

## **Discussion**

In 2001, DOH conducted a review of chapter 246-360 WAC, the transient accommodations rule, as required by the Governor's executive order on regulatory improvement. DOH identified several issues in the current rule that needed to be updated or revisited from a policy standpoint. These included safety and security requirements, handling of hazardous materials, unique situation for homeless shelters and rustic resorts, and overall readability. DOH came before the Board at its September 24, 2001 meeting and asked the Board to issue a CR-101 (Preproposal Statement of Inquiry). It did so on Dec. 17, 2001.

The Department of Health (DOH) assembled a "TA Roundtable" to further identify issues and assist in the development of new rules (see membership list attached). It then drafted possible revisions and held stakeholder workshops to discuss the draft in June 2003. DOH is now prepared to recommend new language to this Board and has requested that the Board file a CR-102 and schedule a public hearing for the July 14 meeting.

Many additional issues arose during the rule review process—for example, the rules did not support industry efforts to be more environmentally friendly by reducing the frequency with which bed linens and towels are washed. Two issues, however, stood out as being particularly significant and sensitive.

The first issue concerns the regulation of homeless shelters. Legal counsel for DOH has stated that homeless shelters fit under the definition of a transient accommodation, while homeless shelter operators have argued they should not be covered by this rule. Staff for the Board and DOH pulled together an advisory group of agencies, shelter operators, and other interested parties. The group reached consensus on a regulatory framework that is less burdensome for shelter operators than the current rule but still affords a level of public health protections to their vulnerable guests. Implementing this consensus proposal will require another round of rulemaking. The Board will receive a detailed briefing on homeless shelter issues in the next few months.

The second issue concerns DOH authority to enter rooms for inspection. RCW 70.62.240(2) grants DOH surveyors authority to enter rooms for inspections but only if they are not occupied. There is disagreement about whether "occupied" means that the room is rented or that the guest is present in the room, and about whether the prohibition against entering an occupied room applies even if the occupant freely consents to the survey. Surveyors allege that a few operators will claim that all their rooms are rented to avoid inspections and want to be allowed to speak to the occupants and ask permission to enter. This threatens to become a protracted legal argument that could delay implementation of other changes. The statute appears to require the Board to set health and safety standards, and this is an administrative issue governing the Department's exercise of its distinct statutory authority. Therefore, the proposed rule will not attempt to resolve this issue. DOH will define procedures for entering and inspecting rooms in its written administrative policies.

Attachments